

(3)

1 DANIEL MAJOR EDSTROM
 2 2690 BROWN BEAR COURT
 3 COOL, CA 95614
 4 TEL: 916/207-6706
 Plaintiff and Debtor-in-Possession



8 UNITED STATES BANKRUPTCY COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 SACRAMENTO DIVISION

12 In re DANIEL MAJOR EDSTROM,

) CASE NO.: 12-29353-B-11

13 Debtor-in-possession.

) CHAPTER 11

) A.P. NO. 13-02132-B

15 DANIEL MAJOR EDSTROM, and all others
 16 similarly situated,

) DC NO. DME-2

17 Plaintiffs,

) PLAINTIFFS ADDITIONAL
) OPPOSITION TO DEFENDANT G&P
) ENTERPRISE LLC'S MOTION TO
) DISMISS;

18 v.
 19 AUBURN LAKE TRAILS PROPERTY
 OWNERS ASSOCIATION A CALIFORNIA
 CORPORATION; ALLIED TRUSTEE
 SERVICES A CALIFORNIA
 CORPORATION, a *Fictitious or Ghost*
Entity; G&P ENTERPRISES A
 CALIFORNIA LIMITED LIABILITY
 COMPANY; and DOES 1-100,

) Hearing:

) Date: July 23, 2013

) Time: 9:32 a.m.

) Ctrm.: 32

) Dept: B

) Hon. Thomas C. Holman
) 501 I Street, 6th Floor, Sacramento,
) California 95814, Tel.: (916) 930-4473

23 Defendants.

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28)

1 COMES NOW, DANIEL MAJOR EDSTROM ("Edstrom" or "Plaintiff") as Plaintiffs
2 request that all parties PLEASE TAKE NOTICE that Plaintiff hereby respectfully objects to and
3 opposes DEFENDANT G&P ENTERPRISE LLC'S ("G&P") MOTION TO DISMISS based on
4 the following:

Pursuant to the new Federal Rules, an answer or motion to strike or dismiss must be filed within 21 days. See Fed. R. Civ. Pro. 12(a)(1)(A)(i), 12(b), and 12(f). In fact the summons to G&P was served on April 19, 2013 (Edstrom Decl ¶ 13) and ALT's motion to dismiss was filed on May 20, 2013 (Edstrom Decl ¶ 15).

9 Additionally pursuant to the United States Bankruptcy Court in and for the Eastern
10 District of California's local rules, specifically local rule 9014-1(d)(6), Defendant G&P's motion
11 must be supported by evidence. The motion is not supported by declaration. A request for
12 judicial notice is included, but it only establishes that (i) G&P has filed its LLC with the
13 California Secretary of State; and (ii) that G&P has filed for the use of the fictitious name Allied
14 Trustee Services. No other evidentiary support by G&P has been provided.

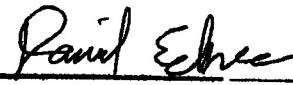
15 Defendant's motion is defective in that it has no factual basis as there was no declaration
16 or affidavit to establish its evidence, if any (except for the very limited request for judicial notice
17 that is not relevant). Thus there is nothing for the Court to consider.

18 For the reasons set forth above, Plaintiff respectfully requests that the defective motion be
19 stricken from the record, that the defective motion be removed from the calendar, or that the
20 motion be denied with prejudice. Additionally Plaintiff requests that this Court enter in the
21 Defendants default as no timely answer or motion to Plaintiffs Adversary Proceeding was
22 provided.

CONCLUSION

24 For the reasons set forth above, Plaintiff respectfully requests that the motion be stricken
25 from the record, removed from the calendar or that the motion be denied with prejudice.
26 Plaintiff respectfully requests that the Court enter in the Defendants default as no timely answer
27 or motion to Plaintiffs Adversary Proceeding was provided.

1 Dated this 9th day of July, 2013
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DANIEL EDSTROM,
Plaintiff and Debtor-in-possession